

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

ALBERT EDMOND

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:03CV345-RHW

JIMMY PEARCE, et al

DEFENDANTS

ORDER DENYING MOTION FOR DEFAULT

Before the Court is Plaintiff's [32] Motion for Entry of Default as to Defendant Jimmy Pearce. Plaintiff argues that Defendant Pearce has failed to plead or otherwise defend this lawsuit. He further argues that defense counsel promised to provide Plaintiff with Defendant Pearce's last known address but has not done so.

Plaintiff has not yet served Defendant Pearce with summons and a copy of the complaint; therefore, a default judgment would not be appropriate at this time. *See* Fed. R. Civ. P. 4(c) & 55; *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80, 84 (1988). Moreover, in response to the Motion, Defendants state that they previously provided Plaintiff with Pearce's last known address, and again provide Plaintiff with Pearce's last known address in the body of their response.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff's [32] Motion for Entry of Default is DENIED.

SO ORDERED, this the 9th day of May, 2006.

s/ Robert H. Walker
UNITED STATES MAGISTRATE JUDGE